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Government of Kerala
1978

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIII] Trivandrum, Thursday, 11th May 1978 / 21st Vaisakha 1900 [No. 314

GOVERNMENT OF KERALA

Law (Leg. C) Department

NOTIFICATION

No. 7290/Leg. C3/78/Law. *Dated, Trivandrum, 11th May 1978/ 21st Vaisakha, 1900.*

The following Ordinance promulgated by the Governor on the 11th day of May, 1978, is hereby published for general information.

By order of the Governor,

K. Viswanathan Nair,
Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1978.

33/1579/MC.

ORDINANCE No. 14 OF 1978

THE GWALIOR RAYONS (RAYON PULP DIVISION) TAKING OVER OF MANAGEMENT ORDINANCE, 1978

Promulgated by the Governor of Kerala in the Twenty-ninth Year of the Republic of India.

AN

ORDINANCE

to provide for the taking over of the management of the undertaking of the Rayon Pulp Division of the Gwalior Rayons and Silk Manufacturing and Weaving Company Limited for a limited period in order to secure the proper management thereof and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS the Rayon Pulp Division of the Gwalior Rayons and Silk Manufacturing and Weaving Company Limited has not been working from the 30th November, 1977;

AND WHEREAS the production of rayon grade pulp has thus stopped;

AND WHEREAS such stoppage has also resulted in the unemployment of about twenty thousand workers employed in the collection and transport of raw materials and in other ancillary industries;

AND WHEREAS in the interest of the workers who are thus unemployed and in the public interest it is necessary to take over the management of the undertaking of the Rayon Pulp Division of the said company for a limited period in order to secure the proper management thereof;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for her to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Ordinance may be called the Gwalior Rayons (Rayon Pulp Division) Taking Over of Management Ordinance, 1978.

(2) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means the day on which this Ordinance comes into force;

(b) "company" means the Gwalior Rayons and Silk Manufacturing and Weaving Company Limited, being a company as defined in the Companies Act, 1956 and having its registered office at Nagda in the State of Madhya Pradesh;

(c) "controller" means the person or body of persons appointed as the controller under section 3;

(d) "notified order" means an order notified in the Gazette;

(e) "prescribed" means prescribed by rules made under this Ordinance;

(f) "Rayon Pulp Division" means the Rayon Pulp Division of the company at Mavoor in the State of Kerala;

(g) "undertaking" includes all assets, rights, lease-holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, stores, equipments, automobiles and other vehicles, cash balances, reserve funds, investments and book debts and all other rights and interests arising out of such property as were, immediately before the date of the notified order under sub-section (1) of section 3, in the ownership, possession, power or control of the company for the purposes of the Rayon Pulp Division, and all books of account, registers and all other documents of whatever nature relating thereto,

Chapter II

TAKING OVER OF MANAGEMENT OF UNDERTAKING

3. *Controller to take over management of undertaking.*—(1) The Government may, by notified order, appoint a person or body of persons as the controller of the undertaking to take over the management thereof.

(2) Any notified order issued under sub-section (1) shall remain in force for such period not exceeding two years as may be specified in the order:

Provided that if the Government are of opinion that in order to secure the proper management of the undertaking it is expedient that any such notified order should continue in force after the expiry of the period specified in that order, they may, from time to time, by notification in the Gazette, extend such period by not more than six months at a time, but no such notified order shall in any case remain in force for more than five years.

4. *Effect of notified order under section* 3.—(1) On the issue of a notified order under sub-section (1) of section 3 appointing the controller to take over the management of the undertaking,—

(a) all persons in charge of the management of the undertaking immediately before the date of the notified order shall be deemed to have vacated their offices as such;

(b) the controller shall alone be entitled, notwithstanding anything contained in any law for the time being in force, to manage the undertaking;

(c) as from the date of the notified order, the undertaking shall be deemed to be in the custody of the controller who shall, as soon as may be after such date, take such steps as may be necessary to take into possession or under his control all properties, assets and effects and all actionable claims comprised in the undertaking.

(2) Subject to the other provisions contained in this Ordinance, the controller shall take such steps as may be necessary for the purpose of efficiently managing the affairs of the undertaking and shall exercise such other powers and perform such other duties as may be prescribed.

(3) The controller shall receive from the undertaking such remuneration and allowances as may be prescribed.

5. *Removal of controller.*—The Government may, if they are satisfied that the management of the undertaking by the controller is not in the interest of the undertaking, by notification in the Gazette remove the controller from office and appoint another person or body of persons as the controller:

Provided that no such notification shall be issued without giving the controller an opportunity to show cause against the proposed removal.

6. *No right to compensation for termination of office.*—Notwithstanding anything contained in any law for the time being in force, no person who ceases to hold any office by reason of the provisions contained in clause (a) of sub-section (1) of section 4 shall be entitled to any compensation for the loss of office:

Provided that nothing contained in this section shall affect the right of any such person to recover from the company moneys recoverable otherwise than by way of such compensation.

7. *Transfer of provident fund, etc., of officers and other employees to the controller.*—Where the company has established a provident, superannuation, welfare or any other fund for the benefit of the officers and other employees of the Rayon Pulp Division, such fund shall, with effect on and from the date of the notified order under sub-section (1) of section 3, stand transferred to, and vested in, the controller.

8. *Power of Government to cancel notified order under section 3.*—If, at any time, it appears to the Government on the application of the company or otherwise that the purpose of the notified order under sub-section (1) of section 3 has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Government may, by notified order, cancel such order.

CHAPTER III

MISCELLANEOUS

9. *Duty to deliver possession of property and documents relating thereto.*—(1) As soon as may be after the issue of the notified order under sub-section (1) of section 3, every person having possession, custody or control of any property comprised in the undertaking shall deliver the property to the controller or to any person authorised by the controller in this behalf.

(2) Any person who, on the date of the notified order under sub-section (1) of section 3, has in his possession or under his control any books, documents or other papers relating to be undertaking shall, notwithstanding anything contained in any law for the time being in force, be liable to account for the said books, documents and other papers to the controller and shall deliver them to the controller or any person authorised by the controller in this behalf.

(3) The controller may take all necessary steps for securing possession of all properties comprised in the undertaking.

10. *Duty to furnish particulars.*—The company shall, within ten days from the date of the notified order under sub-section (1) of section 3, or within such further period as may be allowed by the controller in this behalf, furnish to the controller a complete inventory of all the properties and assets of the company as relates to the Rayon Pulp Division at the commencement of this Ordinance and of all liabilities and obligations of the company in relation to the said Division subsisting at such commencement and also all agreements entered into by the company in relation to the Rayon Pulp Division and in force at such commencement.

11. *Penalty for false statement.*—(1) If any person—

(a) when required by this Ordinance or by any order made under this Ordinance to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or believes to be false or does not believe to be true; or

(b) makes any such statement as aforesaid in any book, account, record, return or other document which he is required by any order made under this Ordinance to submit,

he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

(2) Any person who—

(a) having in his possession, custody or control any property comprised in the undertaking wrongfully withholds such property from the controller; or

(b) wrongfully obtains possession of any property comprised in the undertaking; or

(c) wilfully withholds or fails to produce to any person authorised under this Ordinance, any register, record or other document which may be in his possession, custody or control; or

(d) fails without any reasonable cause to submit any accounts, books or other documents when required to do so,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

12. *Offences by companies.*—(1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

13. *Limitation on prosecution.*—No court shall take cognizance of an offence punishable under this Ordinance except with the previous sanction of the controller or of an officer authorised by the controller in this behalf.

14. *Protection of action taken under the Ordinance.*—No suit, prosecution or other legal proceedings shall lie against the Government or the controller or any other person for anything which is in good faith done or intended to be done under this Ordinance.

15. *Over-riding effect of Ordinance.*—The provisions of this Ordinance or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Ordinance or any instrument having effect by virtue of any law other than this Ordinance.

16. *Application of Companies Act, 1966.*—For the removal of doubts it is hereby clarified that the Companies Act, 1956 (Central Act 1 of 1956), shall continue to apply to the Rayon Pulp Division in the same manner as it applied thereto before the date of the notified order under sub-section (1) of section 3.

17. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Ordinance.

(2) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it

is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

JOTHI VENCATACHELLUM,

GOVERNOR.

Reg. No. KL/TV/N

Government of Kerala
1978

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Vol. XXIII] Trivandrum, Thursday, 11th May 1978 / 21st Vaisakha 1900 [No. 316

GOVERNMENT OF KERALA

Industries (G) Department

NOTIFICATION

No. 8718/G1/78/ID. *Dated, Trivandrum, 11th May, 1978.*

S. R. O. No. 416/78.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Gwalior Rayons (Rayon Pulp Division) Taking Over of Management Ordinance, 1978 (14 of 1978) the Government hereby appoint Shri K. T. Chandy, residing at Avittam Road, Kannammoola, Trivandrum as the Controller of the undertaking to take over the management thereof.

By order of the Governor,

M. S. K. RAMASWAMI,

Special Secretary to Government.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS. TRIVANDRUM, 1978.

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Vol. XXIII] Trivandrum, Thursday, 11th May 1978 / 21st Vaisakha 1900 [No. 315

GOVERNMENT OF KERALA

Higher Education (G) Department

NOTIFICATION

No. 14716/G1/78/H.Edn. *Dated, Trivandrum, 9th May, 1978.*

The following are the select lists as approved by Government, of Officers for promotion to the category of Professor in Telecommunication Engineering in Engineering Colleges in the scale of Rs. 1150-1650 prepared by the Departmental Promotion Committee.

(1) *Select list for 1975-76.*

Shri M. Parameswaran Nair.

(2) *Select list for 1976-77.*

Shri M. Harisankar.

Dr. V. VENKITANARAYANAN.
Special Secretary to Government (Edn.) and Convener,
Departmental Promotion Committee for Technical Education Department.

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33/1578/MC.